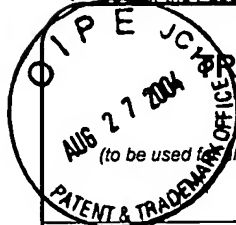


08-30-04

PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

Application Number	10/647,268
Filing Date	August 20, 2003
First Named Inventor	Teruko Osumi et al.
Art Unit	1642
Examiner Name	Not yet assigned
Attorney Docket Number	0155.02

Total Number of Pages in This Submission

## ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Supplemental Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<b>Remarks</b> Forms PTO/SB/08 (4 pages); Twenty-six (26) references; Copy of International Search Report Declaration of Deposit of Biological Material; NRRL Budapest Treaty Deposit Receipts, two (2); NRRL Budapest Treaty Viability Statements, two (2); Certificate of mailing by Express Mail. Postcard Receipt		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Margaret A. Connor
Signature	<i>Margaret A. Connor</i>
Date	August 27, 2004

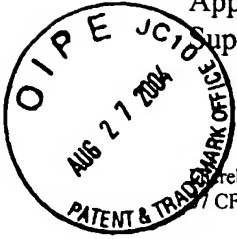
## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is deposited with the United States Postal Service "Express Mail Post Office to Addressee" under 37 CFR 1.10 on the date indicated below and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.  
Express Mail No. EK 918713602 US

Typed or printed name	Margaret A. Connor		
Signature	<i>Margaret A. Connor</i>	Date	August 27, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Appl. No. 10/647,268

PATENT

Supplemental Information Disclosure Statement

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"Express Mail" Mailing No. EK 918713602 US

Date of Deposit: August 27, 2004

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Margaret A. Connor

(Typed or Printed Name of Person Mailing Paper or Fee)

*Margaret A. Connor*

(Signature of Person Mailing Paper or Fee)

Appl. No.	:	10/647,268	Confirmation No. 2068
Applicant	:	Teruko Osumi et al.	
Filed	:	August 20, 2003	
TC/A.U.	:	1642	
Examiner	:	Not yet assigned	
Docket No.	:	0155.02	
Customer No.	:	25278	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

(Submission Prior to Final Rejection or Notice of Allowance)

Sir:

Pursuant to 37 CFR 1.97 and 1.98, applicant(s) hereby submit(s) an Information Disclosure Statement for consideration by the Examiner.

I. LIST OF PATENTS, PUBLICATIONS OR OTHER INFORMATION

The patents, publications or other information submitted for consideration by the Office (except U.S. patent applications) are listed on PTO/SB/08, attached hereto.

II. COPIES (check at least one item)

OG Notice 05 August 2003: The office hereby waives the requirement under 37 CFR 1.98 (a)(2)(i) for submitting a copy of each cited U.S. Patent and each U.S. patent application publication for all U.S. national patent applications filed after June 30, 2003 and for all international applications that have entered the national stage under 35 USC 371 after June 30, 2003.

- a. X Submitted herewith is a legible copy of (i) each foreign patent document; (ii) each publication or that portion which caused it to be listed; (iii) for each cited U.S. patent and pending U.S. application, a listing of that portion of the application which caused it to be listed and (iv) all other information or that portion which caused it to be listed.
- b. \_\_\_\_ Any patents, publications or other information which are listed on PTO/SB/08 or on the copies of PTO 892 but which are not enclosed herewith were previously cited by or submitted to the PTO in one of the following applications which has been relied upon for an earlier filing date under 35 USC 120:

U.S. Serial Number

U.S. Filing Date

III. CONCISE EXPLANATION OF THE RELEVANCE (check at least one item)

- a. \_\_\_\_ Except as may be indicated below in (b), all patent, publications or other information are in the English language (concise explanation not required).
- b. \_\_\_\_ A concise explanation of the relevance of all patents, publications or other information listed that is not in the English language is as follows:
- c. \_\_\_\_ The following additional information is provided for the Examiner's consideration:

IV. CROSS REFERENCE TO RELATED APPLICATIONS

The Examiner is advised that the following co-pending application(s) contain(s) subject matter that may be related to the present application. By bringing this (these) application(s) to the Examiner's attention, applicant does not waive the confidentiality provisions of 35 USC 122:

Serial No.

Filing Date

Art Unit

FEES

- V. THIS IDS IS BEING FILED UNDER 37 CFR 1.97(b): (check one item)
- a. ☐ Within three months of the filing date of a national application other than a continued prosecution application under § 1.53 (d). [37 CFR 1.97(b)(1)].  
No fee or statement is required.
- b. ☐ Within three months of the date of entry of the national stage as set forth in §1.491 in an international application [37 CFR 1.97(b)(2)].  
No fee or statement is required.
- c. ☒ Before the mailing date of the first Action on the merits [37 CFR 1.97(b)(3)].  
No fee or statement is required.
- d. ☐ Before the mailing of a first office action after the filing of a request for continued examination under § 1.114 [37 CFR 1.97 (b)(4)].  
No fee or statement is required
- VI. THIS IDS IS BEING FILED UNDER 37 CFR 1.97(c):  
before the mailing date of a Final Office Action under 37 CFR 1.113 [See 37 CFR 1.97(c)(1)] or before the mailing date of a Notice of Allowance under 37 CFR 1.311 [See 37 CFR 1.97(c)(2)]. (check one item)
- a. ☐ No statement; therefore, a fee in the amount of \$ \_\_\_\_\_ is required by 37 CFR 1.17(p); or
- b. ☐ See the statement below. No fee is required.
- VII. Statement Under 37 CFR 1.97(e)  
The undersigned hereby certifies that: (check only one item)
- a. ☐ each item of information contained in the IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS; or
- b. ☐ no item of information contained in the IDS was cited in a communication from a foreign patent office in a counterpart foreign application and, to the best of my knowledge after making reasonable inquiry, was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of this statement.

- c.      Some of the items of information were cited in a communication from a foreign Patent Office. As to this information, the undersigned certifies that each item of information contained in the IDS was cited in a communication for a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing of this IDS. As to the remaining information, the undersigned hereby certifies that no items of this remaining information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application or, to the best of my knowledge after making reasonable inquiry, was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of this statement.

VIII. Payment of Fees (check one item)

- a. X NO FEE IS REQUIRED.
- b.      Please charge Deposit Account No. 50-2135 in the amount of \$          for the above-indicated fee. A duplicate copy of this paper is attached.

This disclosure Statement is not to be construed as a representation that (i) a search has been made; (ii) additional information material to the examination of this application does not exist; or (iii) the cited information constitutes prior art in the subject application.

If this IDS is determined to not fully comply with the rules, the Examiner is urged to contact the undersigned.

Please charge any additional fees or credit any overpayment pursuant to 37 CFR 1.16 or 1.17 to Deposit Account 50-2135.

Respectfully submitted,

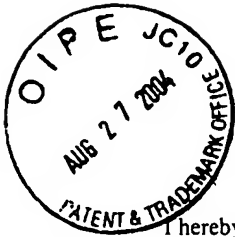
Margaret A. Connor

Margaret A. Connor  
Attorney of Record  
Registration No. 30,043

Telephone: (510) 527-1418  
                    or 559-6067

Enclosures

- X PTO/SB/08 (4 pages)  
     PTO-892  
X References (26)  
X Foreign Search Report  
     Fee  
     Other:



PATENT

**Certificate of Mailing by Express Mail**

Express Mail No.: **EK 918713602 US**

Date: **August 27, 2004**

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Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

Depositor's Name: **Margaret A. Connor**

Depositor's Signature: *Margaret A. Connor*

Appl. No. : 10/647,268  
Applicant : Teruko Osumi et al.  
Filed : August 20, 2003  
Title : *Solanum Bulbocastanum* Late Blight  
Resistance Gene and Use Thereof

TC/A.U. : 1642  
Examiner : Not yet Assigned

Docket No. : 0155.02

Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION OF DEPOSIT OF BIOLOGICAL MATERIAL**  
**IN ACCORDANCE WITH 35 U.S.C. 122**

William R. Belknap declares as follows:

He is a joint inventor with Teruko Osumi, David R. Rockhold, and Mary M. Maccree of the subject matter described and claimed in the above-identified application.

Statement of Deposit

The plasmids described in the above-identified application, namely, *Escherichia coli* a/k/a PBT 1596 and *Escherichia coli* a/k/a PBT 1593, were deposited August 18, 2003 under the terms of the Budapest Treaty with the Agricultural Research Service Culture Collection (NRRL), National Center for Agricultural Utilization Research, Agricultural Research Service, U.S. Department of Agriculture, 1815 North University Street, Peoria, IL 61604, and have been assigned the accession numbers B-30685 and B30686 respectively. Copies of the NRRL deposit receipts and viability statements are attached.

PATENT

The depository affords permanence of the deposits and ready accessibility thereto by the public if a patent is granted, under conditions which assure (a) that access to the cultures will be available during pendency if the patent application to one determined by the Commissioner to be entitled thereto under 37 CFR 1.14 and 35 U.S.C. 122, and (b) that all restrictions, if any, on the availability to the public of the cultures so deposited will be irrevocably removed upon the granting of a patent; and

That all statements made herein of his own knowledge are true and that all statements made on information and belief are believed true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed: July 16, 2004

  
William R. Belknap

Enclosures  
NRRL Budapest Treaty Deposit Receipts  
NRRL Budapest Treaty Viability Statements


BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSE OF PATENT PROCEDURES

## INTERNATIONAL FORM

TO  
Patent Dept.  
USDA, ARS, WRRRC, CIU  
800 Buchanan St.  
Albany, CA 94710-1105

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT  
issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

NAME AND ADDRESS  
OF DEPOSITOR

<b>I. IDENTIFICATION OF THE MICROORGANISM</b>	
Identification reference given by the DEPOSITOR: <i>Escherichia coli</i> DH5-alpha::pNBS-LRRcDNA Clone #13 (a/k/a PBT1593)	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY:  NRRL B-30686
<b>II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION</b>	
The microorganism identified under I. above was accompanied by:  <input type="checkbox"/> a scientific description  <input checked="" type="checkbox"/> a proposed taxonomic designation  (Mark with a cross where applicable)	
<b>III. RECEIPT AND ACCEPTANCE</b>	
This International Depositary Authority accepts the microorganism identified under I. above, which was received by it on August 18, 2003 (date of the original deposit) <sup>1</sup>	
<b>IV. RECEIPT OF REQUEST FOR CONVERSION</b>	
The microorganism identified under I. above was received by this International Depositary Authority on (date of the original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on (date of receipt of request for conversion).	
<b>V. INTERNATIONAL DEPOSITARY AUTHORITY</b>	
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority  Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):   Date: 8/27/03

<sup>1</sup> Where Rule 6.4(d) applies, such date is the date on which the status of international  
depositary authority was acquired.



BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT  
OF MICROORGANISMS FOR THE PURPOSE OF PATENT PROCEDURES

## INTERNATIONAL FORM

TO

Patent Dept.

USDA, ARS, WRRRC, CIU

800 Buchanan St.

Albany, CA 94710-1105

NAME AND ADDRESS OF THE PARTY TO WHOM

THE VIABILITY STATEMENT IS ISSUED

VIABILITY STATEMENTissued pursuant to Rule 10.2 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

<b>I. DEPOSITOR</b>	<b>II. IDENTIFICATION OF THE MICROORGANISM</b>
Name: Patent Dept. USDA, ARS, WRRRC, CIU 800 Buchanan St. Address: Albany, CA 94710-0015	Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: <i>Escherichia coli</i> NRRL B-30686 Date of: August 18, 2003 <input checked="" type="checkbox"/> <sup>2</sup> Original Deposit <input type="checkbox"/> <sup>2</sup> New Deposit <input type="checkbox"/> <sup>2</sup> Repropagation of Original Deposit
<b>III. (a) VIABILITY STATEMENT</b>	
Deposit was found: <input checked="" type="checkbox"/> Viable <input type="checkbox"/> Nonviable on (Date) August 19, 2003 International Depositary Authority's preparation was found viable on (Date) <sup>1</sup> August 26, 2003	
<b>III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION</b>	
Depositor determined the International Depositary Authority's preparation was <input type="checkbox"/> <sup>2</sup> Equivalent <input type="checkbox"/> <sup>2</sup> Not equivalent to deposit on _____ (Date) Signature of Depositor _____	
<b>IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (Depositors/Depositary)<sup>4</sup></b>	
<b>V. INTERNATIONAL DEPOSITARY AUTHORITY</b>	
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s): <i>J. Surger</i> Date: 8/27/03

<sup>1</sup> Indicate the date of the original deposit or when a new deposit has been made.<sup>2</sup> Mark with a cross the applicable box.<sup>3</sup> In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.<sup>4</sup> Fill in if the information has been requested.

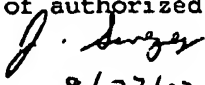
BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSE OF PATENT PROCEDURES

INTERNATIONAL FORM

TO  
Patent Dept.  
USDA, ARS, WRRRC, CIU  
800 Buchanan St.  
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RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT  
issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

NAME AND ADDRESS  
OF DEPOSITOR

<b>I. IDENTIFICATION OF THE MICROORGANISM</b>	
Identification reference given by the DEPOSITOR: <i>Escherichia coli</i> DH5-alpha::pNBS-LRRqDNA (a/k/a PBT1596)	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY:  NRRL B-30685
<b>II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION</b>	
The microorganism identified under I. above was accompanied by:	
<input type="checkbox"/> a scientific description	
<input checked="" type="checkbox"/> a proposed taxonomic designation	
(Mark with a cross where applicable)	
<b>III. RECEIPT AND ACCEPTANCE</b>	
This International Depositary Authority accepts the microorganism identified under I. above, which was received by it on August 18, 2003 (date of the original deposit) <sup>1</sup>	
<b>IV. RECEIPT OF REQUEST FOR CONVERSION</b>	
The microorganism identified under I. above was received by this International Depositary Authority on _____ (date of the original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on _____ (date of receipt of request for conversion).	
<b>V. INTERNATIONAL DEPOSITARY AUTHORITY</b>	
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority  Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):   Date: 8/27/03

<sup>1</sup> Where Rule 6.4(d) applies, such date is the date on which the status of international depositary authority was acquired.

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT  
OF MICROORGANISMS FOR THE PURPOSE OF PATENT PROCEDURES**

**INTERNATIONAL FORM**

**VIABILITY STATEMENT**

TO

Patent Dept.

USDA, ARS, WRRRC, CIU

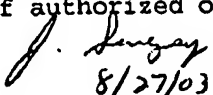
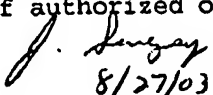
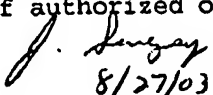
800 Buchanan St.

Albany, CA 94710-1105

NAME AND ADDRESS OF THE PARTY TO WHOM

THE VIABILITY STATEMENT IS ISSUED

issued pursuant to Rule 10.2 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

<b>I. DEPOSITOR</b>  Name: Patent Dept. USDA, ARS, WRRRC, CIU 800 Buchanan St. Address: Albany, CA 94710-0015	<b>II. IDENTIFICATION OF THE MICROORGANISM</b>  Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: <i>Escherichia coli</i> NRRL B-30685 Date of: August 18, 2003 <input checked="" type="checkbox"/> <sup>2</sup> Original Deposit <input type="checkbox"/> <sup>2</sup> New Deposit <input type="checkbox"/> <sup>2</sup> Repropagation of Original Deposit		
<b>III. (a) VIABILITY STATEMENT</b>  Deposit was found: <input checked="" type="checkbox"/> Viable <input type="checkbox"/> Nonviable on (Date) August 19, 2003  International Depositary Authority's preparation was found viable on (Date) <sup>1</sup> August 26, 2003			
<b>III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION</b>  Depositor determined the International Depositary Authority's preparation was <input type="checkbox"/> <sup>2</sup> Equivalent <input type="checkbox"/> <sup>2</sup> Not equivalent to deposit on _____ (Date)  Signature of Depositor _____			
<b>IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (Depositors/Depositary)<sup>1</sup></b>  _____			
<b>V. INTERNATIONAL DEPOSITARY AUTHORITY</b>  <table border="1"> <tr> <td data-bbox="118 1522 792 1785">           Name: Agricultural Research Culture            Collection (NRRL)            International Depositary Authority             Address: 1815 N. University Street            Peoria, Illinois 61604 U.S.A.         </td> <td data-bbox="792 1522 1471 1785">           Signature(s) of person(s) having the power            to represent the International Depositary            Authority or of authorized official(s):               Date: 8/27/03         </td> </tr> </table>		Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority  Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):   Date: 8/27/03
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<sup>1</sup> Indicate the date of the original deposit or when a new deposit has been made.

<sup>2</sup> Mark with a cross the applicable box.

<sup>3</sup> In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

<sup>4</sup> Fill in if the information has been requested.